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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,826

03/17/2004

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25-269

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40615 7590 06/14/2007
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EXAMINER

ORTIZ CRIADO, JORGE L

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

06/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/801,826	Applicant(s) KATSUMA ET AL.	
	Examiner Jorge L. Ortiz-Criado	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 3,5-15,18,20,21 and 23-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,16,17,19 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Species a, claims 1,2,4, 16, 17, 19 and 22 in the reply filed on 04/02/2007 is acknowledged.

Claims 3, 5-15, 18, 20-21 and 23-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04/02/2007.

Specification

The abstract of the disclosure is objected to because the language of "a wavelength selectivity is disclosed" should be avoided. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2, 4, 16, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Katayama et al. J.P. Publication No. 09-054977.

Regarding claim 1, Katayama et al. discloses an aperture limiting element (15) that has a wavelength selectivity (Figs. 1-2), comprising: an aperture (20) that is an open space of a specified size (2b) formed in a substrate (23); and in an area outside the aperture and that surrounds the aperture, a light filter (23) is provided wherein light of a specified wavelength (λ_1 -635nm) is transmitted, and light of a wavelength (λ_2 -785nm) is prevented from passing straight through (see [0017]-[0018]).

Regarding claim 2, Katayama et al. discloses wherein: the light of wavelength (λ_2) that is prevented from passing straight through is blocked, wherein ($\lambda_1 < \lambda_2$) (see [0018]).

Regarding claim 4, Katayama et al. discloses wherein the construction is such that the difference in the optical path length of light of the first wavelength (λ_1) that is transmitted by the

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substrate and said filter versus the optical path length of light of the first wavelength (λ_1) that passes through the open space of said aperture is $m \cdot \lambda_1$, where m is a positive integer (See [0017], is constructed such that phase compensation is provided by 23 adjusting the phase contrast, hence compensating for difference in path length multiplied positively to the λ_1 wavelength).

Regarding claim 16, 17 and 19, Katayama et al. an optical pickup device (Fig. 1) that includes an objective lens (16), an optical pickup element (13; 14), and the aperture limiting element according (15) to claims 1, 2 or 4.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama et al. J.P. Publication No. 09-054977 in view of Kadowaki et al. Patent Application Publication 2001/0036142 or Kadowaki et al. Patent Application Publication or 2003/0053395 and/or Hayashi et al. Patent Application Publication 2002/0181343.

Katayama et al. discloses all the limitations according to claim 16 as outlined above and further discloses wherein the objective lens (16) is a positive lens having a convex surface (Shown in Fig. 1) on the light-source (11; 12) side. But fails to disclose arranged so that the convex surface is inserted into the open space of the aperture.

However, this feature is well known in the art and is evidenced by Kadowaki et al. (142), which discloses an optical pickup including an objective lens (19) and an aperture-limiting element (20) arranged so that the convex surface is inserted into an open space of the aperture (see Fig., 1);

or by Kadowaki et al. (395), which discloses an optical pickup including an objective lens (56) and an aperture-limiting element (55) arranged so that a convex surface of the objective lens is inserted into an open space of the aperture (see Fig., 1);

and/or by Hayashi et al. which discloses an optical pickup including an objective lens (56) and an aperture-limiting element (55) arranged so that a convex surface of the objective lens is inserted into an open space of the aperture (see Fig., 1).


It would have been obvious to one of an ordinary skill in the art to arrange the objective lens such that that the convex surface is inserted into the open space of an aperture limiting member in order to reduce the thickness of the optical pickup device when providing the objective lens inserted into an open space of the aperture maximizing the space in the optical pickup device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge L. Ortiz-Criado whose telephone number is (571) 272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jorge L. Ortiz-Criado
Patent Examiner